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**ILWU, Alaska Longshore Division and ILWU, Unit 22 and American President Lines, LTD and Samson Tug and Barge, LLC, Intervenor.** Cases 19–CD–225672 and 19–CD–225674

April 28, 2020

DECISION AND DETERMINATION OF DISPUTE

BY CHAIRMAN RING AND MEMBERS KAPLAN  
AND EMANUEL

This is a jurisdictional dispute proceeding under Section 10(k) of the National Labor Relations Act. American President Lines, Ltd. (APL) filed charges in Cases 19–CD–225672 and 19–CD–225674 on August 15, 2018, alleging that the Respondents, ILWU, Alaska Longshore Division and ILWU, Unit 222 (collectively “ILWU”) violated Section 8(b)(4)(D) of the Act by engaging in proscribed activity with an object of forcing APL to assign certain work to employees ILWU represents rather than to employees represented by the Inland Boatmen’s Union of Alaska affiliate of the Marine Engineers’ Beneficial Association (IBU/MEBA) and employed by Intervenor Samson Tug and Barge (Samson).<sup>1</sup>

A hearing was held on January 15–17, 2019, before Hearing Officer Adam Morrison. Thereafter, the parties and Samson filed posthearing briefs.

The National Labor Relations Board<sup>2</sup> affirms the hearing officer’s rulings, finding them free from prejudicial error. On the entire record, the Board makes the following findings.

I. JURISDICTION

The parties stipulated that APL is a Delaware corporation engaged in the business of operating ocean-bound cargo shipping vessels and terminal port management at several ports on the west coast of the United States, including Kodiak, Alaska. During the past year, APL provided services valued in excess of \$50,000 directly to entities located outside the State of Alaska. The parties also

stipulated that Samson is an Alaska corporation engaged in the business of interstate shipping with headquarters in Sitka, Alaska. During the past year, Samson provided services valued in excess of \$50,000 directly to entities located outside the State of Alaska. The parties further stipulated, and we find, that APL and Samson are employers engaged in commerce within the meaning of Section 2(6) and (7) of the Act and are subject to the jurisdiction of the Board, and that ILWU and IBU/MEBA are labor organizations within the meaning of Section 2(5) of the Act.

II. DISPUTE

A. Background and Facts of the Dispute

APL transports processed seafood products for its Alaskan customers from its deep-water port in Dutch Harbor, Alaska to various international locations. Eugene Makarin is general manager of APL’s Alaska operations. Mike Mizell is APL’s terminal manager in Kodiak. APL and ILWU are signatories to the All Alaska Longshore Agreement (AALA), a state-wide agreement covering a multiemployer unit of longshore workers in specified Alaskan ports, including Kodiak. The Alaska Longshore Division is the statewide ILWU representative and Dennis Young is the president. Unit 222 is the Port of Kodiak ILWU representative and its president is Frank Tentis-Major and its vice-president is Dustin Fraser. Samson is a barge freight carrier that provides barge service to ports between Seattle, Washington, and Dutch Harbor. George Baggen is Samson’s president. Samson’s employees are represented by IBU/MEBA and Samson and IBU/MEBA are signatories to their own collective-bargaining agreement.<sup>3</sup>

In order to transport cargo from ports APL cannot service directly, like Kodiak, APL has “connecting carrier agreements” (CCAs) with third-party barge operators, such as Samson. In Kodiak, Samson has operated out of Womens Bay<sup>4</sup> since the early 1980s and, since at least the late 1980s, IBU/MEBA-represented Samson employees loaded and unloaded APL cargo to and from Samson barges at Womens Bay.<sup>5</sup>

<sup>1</sup> Samson Tug and Barge filed a Motion to Intervene on December 13, 2018, which was granted by the Regional Director of Region 19 on December 14, 2018.

<sup>2</sup> Chairman Ring has recused himself from consideration of this Decision and Determination of Dispute. He is a member of the panel for quorum purposes, but did not participate in this decision on the merits.

In *New Process Steel v. NLRB*, 560 U.S. 674 (2010), the Supreme Court left undisturbed the Board’s practice of deciding cases with a two-member quorum when one of the panel members has recused himself. Under the Court’s reading of the Act, “the group quorum provision [of Sec. 3(b)] still operates to allow any panel to issue a decision by only two members if one member is disqualified.” *New Process Steel*, 560

U.S. at 688; see also, e.g., *NLRB v. New Vista Nursing & Rehabilitation*, 870 F.3d 113, 127–128 (3d Cir. 2017); *D.R. Horton*, 357 NLRB 2277, 2277 n.1 (2012), *enfd.* in relevant part, 737 F.3d 344, 353 (5th Cir. 2013); *1621 Route 22 West Operating Co.*, 357 NLRB 1866, 1866 n.1 (2011), *enfd.* 725 Fed. Appx. 129, 136 fn.7 (3d Cir. 2018).

<sup>3</sup> Representatives for both Samson and IBU/MEBA testified that they are honoring and operating under the collective-bargaining agreement, even though it has expired.

<sup>4</sup> Specifically, Samson operated out of what was then called the LASH Dock.

<sup>5</sup> Following APL and ILWU’s settlement of a grievance filed by ILWU in 2014, the parties adjusted how APL’s cargo was exchanged

Until 2018,<sup>6</sup> APL had CCAs in Kodiak with two barge operators—Samson, discussed above, and Matson Navigation Company of Alaska (Matson), which operated out of Pier III.<sup>7</sup> As a result of a business dispute unrelated to this proceeding, Matson terminated its CCA with APL effective the end of 2017. Shortly thereafter, Matson, which had become Samson's landlord at Womens Bay, informed Samson that it could no longer handle APL cargo at Womens Bay. APL began searching for an alternate location for its Kodiak operations and, in March 2018, APL Terminal Manager Mizell began working on an operations agreement for Pier II at the Port of Kodiak.<sup>8</sup>

While the Pier II operations were being negotiated with the City of Kodiak, APL and ILWU began discussing, at a series of Joint Port Labor Relations Committee (JPLRC) meetings<sup>9</sup> and over email, how the operations would run. APL Terminal Manager Mizell testified that APL intended for Samson barges calling at Pier II to be worked on the dock side by ILWU-represented employees and on the water side by IBU/MEBA-represented Samson employees.<sup>10</sup> ILWU representative Young testified that ILWU had questions about how the Pier II operations would run and sought answers from APL. At the July JPLRC meeting, APL Terminal Manager Mizell told ILWU to put their questions in writing, which they did, and ILWU requested a response within 2 weeks. The parties also agreed to have a follow-up JPLRC meeting in early August.

On July 25, Mizell emailed ILWU representatives Tentis-Major and Fraser that APL was expecting the first barge to arrive late the following week. He related APL's plan for manning and stated "[a]s we have discussed, Samson will man the water side operations on all barges." Tentis-Major replied later the same day stating, among other things, that "the Union demands APL honor the terms [of] the AALA specifically Section 1: Jurisdiction" and further declaring that the ILWU "do[es] not and ha[s] not agreed

with the Employer position on manning or that a 3<sup>rd</sup> party is entitled to perform longshore work in any manner under the AALA." A couple of days later, Tentis-Major sent an email to APL and Matson, with the subject line "Jurisdictional Questions," following up on the employers' response to the written questions ILWU had submitted. APL Terminal Manager Mizell replied on July 30, attaching APL's responses.

APL received approval to operate at Pier II in early August.<sup>11</sup> On August 8, APL, Matson, and ILWU held another JPLRC meeting.<sup>12</sup> After disagreeing about the topics to be discussed, the parties contacted the Alaska Arbitrator. ILWU representative Young's email to the arbitrator stated that, at the July JPLRC meeting, APL had refused to discuss the water side work at Pier II, asserted that the "greater issue" before the parties was the "jurisdictional boundaries of what is or isn't ILWU work covered under the scope of the AALA," and accused APL of "refus[ing]" to acknowledge Section 1, of the AALA, when determining proper manning for Pier II operations." After declaring that APL's answers to the ILWU's questions were "vague and ambiguous," Young stated that ILWU's proposed manning was aimed, in part, at ensuring "the historical jurisdiction of the workforce is preserved." Later that day, the Alaska Arbitrator issued a decision directing ILWU to accept APL's order and dispatch workers for the Samson Barge at Terminal II and ordering the parties to meet to adjudicate the issue under the AALA.

The next day, August 9, barge operations were scheduled to begin at 8:00 a.m. on the first Samson barge at Pier II. At 7:55 a.m., ILWU began picketing the pier, holding signs protesting APL's refusal to provide information. Both the ILWU-represented employees and the IBU/MEBA-represented Samson employees scheduled to work the barge refused to cross the picket line. The parties contacted the Alaska Arbitrator who issued a decision directing ILWU to "request the picket line to disperse" and

between the two groups of employees, but the IBU/MEBA-represented Samson employees continued to perform the work of loading and unloading APL's cargo to and from Samson's barges.

<sup>6</sup> All dates are in 2018, unless otherwise indicated.

<sup>7</sup> Matson is also a signatory to the AALA.

<sup>8</sup> Although the record is not entirely clear, it appears that Samson barges called at Pier III, where Matson works, for about 8 weeks in between when Samson lost the ability to handle APL cargo at Womens Bay and when the operations at Pier II got up and running and that those Samson barges were worked on the water side by IBU/MEBA-represented Samson employees.

<sup>9</sup> The JPLRC in Kodiak is made up of representatives of Unit 222, APL, and Matson, the other AALA-signatory employer working in Kodiak.

<sup>10</sup> He also reached out to Matson in late May about stevedoring Samson barges at Pier II, but Matson declined.

<sup>11</sup> APL General Manager Makarin testified that after he received the Terminal Operation Contract (TOC) from the City of Kodiak, he

approached Samson President Baggen and asked whether Samson would provide a waiver for ILWU-represented employees to perform the water side work and Baggen declined.

<sup>12</sup> The day before the August JPLRC meeting, ILWU filed two unfair labor practice charges against APL. One alleged APL "fail[ed] to furnish information requested by the Union on July 13, 2018, which the Union requested in order to represent employees employed at a new facility opened by the Employer and covered under the collective-bargaining agreement" in violation of Sec. 8(a)(5). The second alleged, among other things, that on about July 25, APL "announced that it was unilaterally implementing new terms and conditions of employment, including but not limited to staffing levels and having employees of other employers perform unit work, for employees at a new facility in Kodiak, Alaska, and also unilaterally implement[ed] these conditions" in violation of Sec. 8(a)(5).

finding that there was a “bona fide Health and Safety issue” but that the “picket line is not a bona fide picket line under the AALA.” After the arbitrator issued his decision, the picket line dispersed. The picket line lasted approximately 60 to 90 minutes. There has been no picketing since August 9.

### B. Work in Dispute

The notice of hearing described the disputed work as “[t]he water side work of loading and unloading, including the handling, moving, stowing and lashing/unlashing, of cargo to and from barges and vessels at Pier II of the Port of Kodiak in Kodiak, Alaska.” At the hearing, the parties stipulated that the work in dispute is specifically the water side work related to loading and unloading APL’s containers to and from Samson’s barges at Pier II.

We find, based on the record, that the work in dispute is the water side work of loading and unloading, including the handling, moving, stowing and lashing/unlashing, of APL’s containers to and from Samson’s barges at Pier II of the Port of Kodiak in Kodiak, Alaska.

### C. Contentions of the Parties

APL and Samson contend that the Board is authorized to determine the merits of this jurisdictional dispute. They argue that there are competing claims for the work in dispute and that there is reasonable cause to believe that Section 8(b)(4)(D) of the Act has been violated in light of ILWU’s August 9 picket of Pier II. On the merits, APL and Samson contend that the work in dispute should be awarded to the IBU/MEBA-represented Samson employees based on Samson’s collective-bargaining agreement with IBU/MEBA, employer preference and past practice, area and industry practice, relative skills and training, and economy and efficiency of operations.

In its posthearing brief, ILWU contends that the Board should quash the notice of hearing because the sole purpose of its August 9 picket was to protest APL’s refusal to provide responses to ILWU’s information requests. Alternatively, ILWU asserts that if the notice of hearing is not quashed, the disputed work should be awarded to employees it represents based on the factors of Board certifications and collective-bargaining agreements, employer preference and past practice, industry and area practice, relative skills and training, and economy and efficiency of operations.

### D. Applicability of the Statute

The Board may proceed with a determination of a dispute under Section 10(k) of the Act only if there is reasonable cause to believe that Section 8(b)(4)(D) has been violated. This standard requires finding that there is reasonable cause to believe that there are competing claims to the disputed work, and that a party has used proscribed

means to enforce its claim to the work in dispute. Additionally, there must be a finding that the parties have not agreed on a method for the voluntary adjustment of the dispute. See, e.g., *Operating Engineers Local 150 (R&D Thiel)*, 345 NLRB 1137, 1139 (2005). We find that these requirements have been met.

#### 1. Competing claims for work

We find reasonable cause to believe that both ILWU and IBU/MEBA have claimed the work in dispute for the employees they respectively represent. At the hearing, the parties stipulated that ILWU claims the work in dispute. Specifically, ILWU stipulated that it made a claim for the disputed work by filing a grievance against APL and arbitrating that grievance. Jeff Duncan, the Seattle branch agent of MEBA, testified that the IBU/MEBA unit was also claiming the disputed work for its members. In addition, IBU/MEBA-represented employees have been performing the work in dispute since August 10, 2018. Performance of the work in dispute is “evidence of a claim for the work by those employees, even absent a specific claim.” *Operating Engineers Local 513 (Thomas Industrial Coatings)*, 345 NLRB 990, 992 fn. 6 (2005).

#### 2. Use of proscribed means

We turn now to the issue of whether there is reasonable cause to believe that ILWU has used proscribed means to enforce its claim for the disputed work. ILWU asserts that the picketing of Pier II, as the picket signs indicated, was because of APL’s alleged unfair labor practice in refusing to provide the information requested by ILWU. But even assuming that the picketing had a lawful objective, it is well settled that a union may violate Section 8(b)(4)(D) if another object of the conduct is prohibited. *Carpenters (Prate Installations, Inc.)*, 341 NLRB 543, 545 (2004). We find that an object of the ILWU’s picketing was to obtain exclusively the disputed work that was to be performed by Samson employees represented by IBU/MEBA. Both Young and Tentis-Major’s communications made clear they considered the water side work to be ILWU work and that ILWU objected to a “third party” performing that work. Moreover, the picketing took place at Pier II, the location where the disputed work was to be performed, on the very morning the first Samson barge was due to arrive a mere 5 minutes before the operations were set to commence. We conclude, therefore, that there is reasonable cause to believe that an object of ILWU’s picketing was to force or require APL and/or Samson to assign the disputed to work employees ILWU represents. See, e.g., *Electrical Workers Local 124 (Pepper Construction Co.)*, 339 NLRB 123, 124 (2003).

### 3. No voluntary method for adjustment of dispute

The parties stipulated that there is no agreed-upon method for voluntary adjustment of the work in dispute that would bind all parties. Thus, we further find no agreed-upon method for voluntary adjustment of the dispute.

Based on the foregoing, we find that there is reasonable cause to believe that Section 8(b)(4)(D) has been violated, and that there is no agreed-upon method for the voluntary adjustment of the dispute. We accordingly find that the dispute is properly before the Board for determination.<sup>13</sup>

#### E. Merits of the Dispute

Section 10(k) requires the Board to make an affirmative award of disputed work after considering various factors. *NLRB v. Electrical Workers Local 1212 (Columbia Broadcasting)*, 364 U.S. 573, 577 (1961). The Board has held that its determination in a jurisdictional dispute is “an act of judgment based on common sense and experience,” reached by balancing the factors involved in a particular case. *Machinists Lodge 1743 (J. A. Jones Construction)*, 135 NLRB 1402, 1411 (1962).

The following factors are relevant in making the determination of this dispute.

#### 1. Board certifications and collective-bargaining agreements

There are no Board certifications concerning any of the employees involved in this dispute.<sup>14</sup>

Both the AALA and IBU/MEBA’s contract with Samson arguably cover the disputed work. The AALA states that it applies “to the handling of cargo and its transfer from vessel to first place of rest, and vice versa” and further that it covers: “[a]ll movement of cargo on vessels, or loading to and discharging from vessels of any type, and on docks, or to and from railroad cars, ferries and barges at docks” as well as “movement of outbound cargo from the time it enters a dock and comes under the control of

any terminal, stevedore, agent or vessel operator covered by this Agreement and covers movement of inbound cargo only so long as it is at a dock and under the control of any vessel operator, agent, stevedore, or terminal covered by this Agreement.” The AALA specifically lists Kodiak as an “ILWU Port” and Letter of Understanding No. 12 (LOU #12) specifies that, in the Ports of Kodiak and Dutch Harbor, “[b]arges worked at non-private docks shall be worked by ILWU Longshoremens under the terms of the AALA (e.g.—public city docks).”<sup>15</sup>

Samson President Baggen testified that the Samson IBU/MEBA-represented bargaining unit is “top to bottom” and covers employees from Seattle to Dutch Harbor. Section 8 of the expired Samson-IBU/MEBA contract states that it applies “to all vessels and to all shore based locations of the Employer” and “to the handling of cargo and transfer from vessel” when the work is done by Samson employees. Furthermore, IBU/MEBA-represented Samson employees employed under the Samson-IBU/MEBA contract are performing the disputed work. See, e.g., *Pepper Construction*, supra, 339 NLRB at 125.

Because both agreements arguably encompass the disputed work, this factor does not support awarding the work in dispute to employees represented by either union. See, e.g., *Michigan Laborers District Council, An Affiliate of the Laborers’ International Union of North America, AFL-CIO (Ram Construction Services of Michigan, Inc.)*, 368 NLRB No. 18, slip op. at 5 (2019).

#### 2. Employer preference, current assignment, and past practice

IBU/MEBA-represented Samson employees have been performing the work in dispute since it commenced in late 2018. Prior to the commencement of operations at Pier II, IBU/MEBA-represented Samson employees performed similar work at Womens Bay and, briefly, at Pier III. Although Samson President Baggen did not say so explicitly in his testimony, the parties agree that Samson’s

<sup>13</sup> The ILWU did not orally move at the hearing or file a motion to quash the Sec. 10(k) notice of hearing. As they do argue in their post-hearing brief that the notice should be quashed, we have nevertheless addressed that argument, and we deny it on the merits. See, e.g., *Iron Workers Local 112 (Freesen Inc.)*, 346 NLRB 953, 955 fn. 5 (2006) (addressing substantive issue of the applicability of the statute notwithstanding no motion to quash being filed).

<sup>14</sup> ILWU claims that the Board’s certifications weigh in favor of awarding the disputed work to employees it represents, citing *Alaska Steamship Co.*, 172 NLRB 1200 (1968). In that case, however, the Board specifically noted that it was clarifying a unit represented by an uncertified union, 172 NLRB at 1202 fn. 8. ILWU also claims that there is a certification pertaining to Samson employees, *Samson Tug & Barge Co.*, 194 NLRB 317, 318 (1971). However, the union in that case was the Inland Boatmen’s Union of the Pacific, not the Inland Boatmen’s Union of Alaska, which is an affiliate of MEBA, and the bargaining representative of Samson’s employees.

<sup>15</sup> On March 1, 2019, ILWU filed a Motion to Reopen the Record. The motion was filed for the purpose of introducing a February 9, 2019 arbitration decision as evidence that the AALA covers the disputed work and requires APL to assign the disputed work to employees represented by ILWU. APL and Samson both filed oppositions to ILWU’s motion and ILWU filed a response. The evidence that ILWU obtained an arbitration award interpreting the AALA in a manner consistent with ILWU’s claim to the work does not materially affect our conclusion that both the AALA and the Samson-IBU/MEBA contract arguably cover the work in dispute. In addition, the Board has given little or no weight to arbitration awards when one of the parties to the jurisdictional dispute was not bound thereby. *Machinists District 160 Local 289 (SSA Marine)*, 347 NLRB 549, 551 fn. 4 (2006). Accordingly, we deny the motion to reopen the record on the ground that the additional evidence sought to be adduced would not require a different result. See Sec. 102.48(d) of the Board’s Rules and Regulations.

preference is for the IBU/MEBA-represented employees to continue performing the work in dispute. Baggen and APL General Manager Makarin both testified that Baggen declined Makarin's request to consider using ILWU-represented employees to perform the disputed work. Makarin testified that he would prefer the work in dispute be performed by ILWU-represented employees, but also testified that he would prefer the parties find a way to accommodate both ILWU-represented employees and IBU/MEBA-represented employees. Through testimony at the hearing and in its brief, APL expressed that its overriding preference is to be able to continue contracting with Samson for barge services in Kodiak.

The factor of employer preference is generally entitled to substantial weight. See *Iron Workers Local 1 (Goebel Forming, Inc.)*, 340 NLRB 1158, 1163 (2003). The parties vigorously disagree on which employer's preference is relevant—ILWU argues that APL's preference controls and APL and Samson argue that it is Samson's preference that matters. Thus, APL's stated preference that the disputed work be assigned to ILWU-represented employees is at odds with its position that it is Samson's preference that should be considered and also with its overall position that the factors favor an award of the disputed work to Samson's IBU/MEBA-represented employees. In these circumstances, we recognize APL's stated preference, but we also find that APL's desire to continue contracting with Samson, Samson's preference that the disputed work be awarded to its IBU/MEBA-represented employees, as well as the parties' current assignment and past practice favor the award of the disputed work to Samson's IBU/MEBA-represented employees. See, e.g., *Steelworkers Local 3-U (Greyhound Exposition)*, 302 NLRB 416, 419–420 (1991).

### 3. Industry and area practice

In some Alaskan ports, Samson barges are worked on the water side by IBU/MEBA-represented Samson employees, and in other Alaskan ports Samson barges are worked on the water side by ILWU-represented employees. In those circumstances, we find that this factor favors neither group of employees. See, e.g., *International Union of Operating Engineers, Local 150, AFL–CIO (Jack Gray Transport, Inc. d/b/a Lakes & Rivers Transfer)*, 364 NLRB No. 132, slip op. at 3–4 (2016).

### 4. Relative skills and training

The parties all agree that both groups of employees include individuals who are capable of operating the equipment necessary to load a barge. APL and Samson, however, dispute that ILWU-represented employees possess the skills necessary to operate that equipment on a barge (rather than on land) and argue that ILWU-represented

employees lack the knowledge of Samson's overall operations necessary to load and stow APL's cargo on Samson's barge in Kodiak. In contrast, Samson employees have been and are performing the work in dispute, which confirms that they possess the requisite skills. See, e.g., *Local 876, International Brotherhood of Electrical Workers*, 365 NLRB No. 81, slip op. 5 at (2017). ILWU argues that more ILWU-represented employees are trained and qualified to perform the disputed work. ILWU contends that there are four ILWU longshoremen in Kodiak who currently can operate a bull forklift or top pick aboard a Samson barge and seven more could learn "in about two weeks."

Based on the foregoing, it appears that both groups of employees may possess the relative skills to perform the disputed work. However, based on the IBU/MEBA-represented Samson employees' knowledge of Samson's overall operation, including knowledge of the specific needs and limitations of subsequent ports, and on their experience in performing the work in dispute, we find that this factor favors an award to Samson's IBU/MEBA-represented employees. See, e.g., *Longshoremen ILWU Local 51 (Port Townsend Paper)*, 271 NLRB 354, 358 (1984).

### 5. Economy and efficiency of operations

Samson argues that the current arrangement is working well, due in large part to having Samson's IBU/MEBA-represented employees performing the work in dispute. Samson President Baggen testified that in his opinion it would not work to have ILWU-represented employees perform the work. He further testified that Samson would stop taking its barges to Pier II and try to work out an alternative for providing service to APL in Kodiak if the work in dispute is awarded to ILWU-represented employees. APL argues that Samson employees are better able to operate during barge loading operations and are cross-trained to handle multiple tasks.

ILWU contends that the factors of economy and efficiency of operations favor awarding the disputed work to ILWU-represented employees because the equipment ILWU-represented employees would use to perform the work (a top pick) is more efficient than the equipment IBU/MEBA-represented employees use to perform the disputed work (a bull forklift); when ILWU-represented employees are working both water side and dock side they are in regular communication and know the number and roles of every other longshoreman working the barge; ILWU-represented employees work under a common set of safety rules and standards; and APL can order skilled ILWU-represented employees from other ports to travel to Kodiak to train Kodiak-based employees or work the barge themselves.

ILWU-represented employees have not performed the work in dispute, so Samson's position that this factor favors the IBU/MEBA-represented employees is based primarily on opinion testimony from its witnesses. At the same time, ILWU's position that this factor favors the ILWU-represented employees likewise is based primarily on opinion testimony from its witnesses. However, as noted above, IBU/MEBA-represented Samson employees possess greater knowledge of and experience in Samson's overall operation, including knowledge of the specific needs and limitations of subsequent ports, than the employees represented by ILWU who have not previously performed the work in dispute. See, e.g., *Port Townsend Paper*, supra, 271 NLRB at 358. Thus, we find that the factor of economy and efficiency of operations favors an award to Samson's IBU/MEBA-represented employees.

(SEAL)

NATIONAL LABOR RELATIONS BOARD

## CONCLUSION

After considering all of the relevant factors, we conclude that Samson employees represented by IBU/MEBA are entitled to perform the work in dispute. We reach this conclusion relying on the factors of current assignment, past practice, relative skill, and economy and efficiency of operations. In making this determination, we award the work to Samson employees represented by IBU/MEBA, not to that labor organization or to its members. The determination is limited to the controversy that gave rise to this proceeding.

## DETERMINATION OF DISPUTE

The National Labor Relations Board makes the following Determination of Dispute.

Employees of Samson Tug and Barge, LLC, represented by Inland Boatmen's Union of Alaska affiliate of the Marine Engineers' Beneficial Association are entitled to perform the water side work of loading and unloading, including the handling, moving, stowing and lashing/unlashing, of American President Lines, Ltd.'s containers to and from Samson's barges at Pier II of the Port of Kodiak in Kodiak, Alaska.

Dated, Washington, D.C. April 28, 2020

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 John F. Ring,

Chairman

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 Marvin E. Kaplan,

Member

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 William J. Emanuel

Member